

## **Chapter 4.62**

### **POLICE AND FIRE PENSION PLAN INVESTMENT BOARD**

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#### **4.62.010 Police and Fire Pension Plan Investment Board.**

(a) A Police and Fire Pension Plan Investment Board (the “board”) is hereby established to oversee investments of the fund’s assets and to direct the City in the making of such investments. Administrative duties to manage and operate the Fund shall be assigned to the Personnel Director as Police and Fire Pension Plan Administrator and shall be consistent with the Police and Fire Pension Plan, the Lincoln Municipal Code and City Charter, or other relevant law. The board shall have the responsibility for and direct all investments and reinvestments of the funds of the plan and all sums credited to the fund. The board shall be the final authority on all decisions relating to the Fund’s investments.

(b) The Police and Fire Pension Plan Investment Board established pursuant to subsection (a) shall consist of nine members. Two board positions shall be filled by the City Finance Director and the City Personnel Director; two board positions shall be elected by secret ballot by the active paid police officers of the City; two board positions shall be elected by secret ballot by the active paid firefighters of the City; and three board positions shall be appointed by the Mayor, after consultation with the other six members, subject to approval by the City Council. The three appointed members shall have at least five years demonstrated experience in financial, actuarial, investment or employee benefit plan matters.

The terms of the Police and Fire Pension Plan Investment Board members shall be as follows:

- (1) The initial term of the members elected by the active paid police officers and firefighters shall be two years;
- (2) The initial terms of the three appointed members shall be two, three, and four years, respectively;
- (3) The Finance and Personnel Directors shall serve a term concurrent with their offices; and
- (4) All subsequent terms of the members, except the Finance and Personnel Directors, shall be five years.
- (5) Five members of the board shall constitute a quorum for the transaction of business and shall have full power to act under the terms of the plan. Five concurring votes shall be required of the board to take action. (Ord. 18314 §2; March 15, 2004; P.C. § 2.66.160; Ord. 16644 §1; July 25, 1994).

#### **4.62.015 Investment Board; Duties.**

It shall be the duty of the Investment Board:

- (a) To provide oversight and direction to the Plan Administrator with regard to the investment of the funds of the Police and Fire Pension Plan;
- (b) To promulgate and adopt rules and regulations for the management of the board;
- (c) To keep a complete record of all proceedings taken at any meeting of the board and to record in writing all actions and decisions of the board;
- (d) To assure that investment decisions made by it will maintain the Police and Fire Pension Plan's qualified status pursuant to the Internal Revenue Code;
- (e) To make recommendations regarding possible plan changes only after an actuarial determination that a recommendation is financially feasible;
- (f) To discharge their duties with respect to the investment of the funds of the Police and Fire Pension Plan solely in the interests of the plan members and their beneficiaries for the exclusive purposes of providing benefits to members and their beneficiaries and deferring reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law. The board members shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- (g) Board members, excluding the Finance and Personnel Directors, may be removed by a vote of not less than five members for a failure of fiduciary responsibility. The board, by rule, shall prescribe a procedure for receipt and determination of such charges, consistent with the principals of due process in administrative proceedings.
- (h) No board member shall be responsible, at his or her own expense, to take legal action to correct the misconduct of any other member of the board. A board member shall have an affirmative obligation, however, to report an allegation of misconduct to the City Council in writing. The City Attorney's Office shall investigate any allegation of misconduct and issue a written response to the Investment Board.
- (i) All board members shall serve without compensation, although they shall be reimbursed for all necessary expenses authorized by the board. The board shall be permitted to prescribe uniform rules for reimbursement for travel expenditures, where necessary. Board members who are City employees and attend meetings during working hours shall receive regular pay.
- (j) The board shall biennially select a chairman and a secretary who shall execute all authorized documents on behalf of the board. The board shall keep minutes of all meetings, and the record of any action taken by the board shall be kept in written form and maintained by the board. The board shall have the authority to make uniform rules and regulations necessary to carry out its investment plan, which rules and regulations shall be consistent with the Police and Fire Pension Plan, the Lincoln Municipal Code or City Charter. (Ord. 18314 §3; March 15, 2004).

#### **4.62.020 Retirement Information.**

In cooperation with the Police and Fire Pension Plan Investment Board, the Plan Administrator shall have the following duties:

- (a) Provide each employee, upon becoming a member of the Police and Fire Pension Plan, a summary of plan requirements governing eligibility for all benefits provided under the plan;
- (b) Provide, when possible, within thirty days after a request is made by a member, a statement describing the amount of benefits such member is eligible to receive;
- (c) Make available for review:

- (1) An annual report of the plan's operations describing:
  - (i) the amount of contributions to the plan from both members and the City;
  - (ii) the annual total of amounts credited to the plan;
  - (iii) the amount of benefit payments and other deductions made from the plan; and
- (2) An individualized report applicable to the plan shall be mailed annually to each member's address of record.

(d) Have an analysis made of the investment return that has been achieved on the assets of the plan administered by the City. The analysis shall be prepared as of January 1, 1989, and each five years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise in the performance of this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the plan.

- (e) The Plan Administrator's administrative duties shall include, but are not limited to:
  - (1) Maintain such records as are necessary for calculating and distributing retirement benefits;
  - (2) Maintain such records as are necessary for financial accounting and reporting of retirement plan funds;
  - (3) Maintain such records as are necessary for the actuarial evaluation of the retirement plan, including investigations into the mortality, service and compensation experience of its members and beneficiaries;
  - (4) Compile such other administrative or investment information as is necessary for the management of the retirement plan;
  - (5) Process, certify and/or respond to all correspondence, bills and statements received by the retirement plan as well as all applications submitted to the board for retirement benefits;
  - (6) Establish and maintain communication with City departments and other agencies of government as is necessary for the management of the retirement plan, including preparing, filing and distributing such reports and information as are required by law to be prepared, filed or distributed on behalf of the plan;
  - (7) Determine all questions relating to and process all applications for eligibility and participation in service retirement benefits;
  - (8) Distribute at regular intervals to employees, a comprehensive summary plan description and periodic reports, not less than biennially regarding the financial and annual actuarial status of the plan;
  - (9) After consultation with the board, retain and compensate professional and technical advisors as is necessary;
  - (10) Assure the prompt deposit of all member contributions, City contributions and investment earnings; and
  - (11) Execute all financial transactions required to implement the board's investment decisions.

(f) Prosecution or defense of actions, claims or proceedings of any nature or kind for the protection of the board in the performance of its duties shall be the responsibility of the City Attorney's Office. (Ord. 18314 §4; March 15, 2004: P.C. §2.66.170: Ord. 16644 §2; July 25, 1994).

#### **4.62.025 Investment of Plan Assets.**

(a) The determination, direction, and oversight of the investments of the Fund shall be with the board. All assets of the plan may be co-mingled, provided such co-mingling of assets is done in conformity with law and accurate records are maintained at all times reflecting the financial composition of the Fund. Accurate accounts shall be maintained regarding and pursuant to the following:

- (1) Current amounts of accumulated contributions of members, both on an individual and aggregate basis;
- (2) Receipts and disbursements;
- (3) Benefit payments;
- (4) All contributions from the City;
- (5) All interest, dividends, gains and losses from investments;
- (6) Such other entries as may be required for a clear, complete financial report of the status of the Fund.

(b) The board shall establish a written investment policy, with the advice and counsel of such advisors as the board deems necessary, and said investment policy shall set forth the types of investments into which shall be placed the assets of the Fund. The policy shall further set forth appropriate limitations on those investments, including but not limited to, the anticipated rate of return, quality of investment, class of investment, maturity and liquidity, and acceptable risk. The board shall have the authority to invest and reinvest the assets of the plan in such securities and investments as are outlined in Neb. Rev. Stat. § 30-3209(1)(a)-(i)(2002 Cum. Supp.). The Plan Administrator shall act in accordance with the investment policy established by the board.

(c) The board shall determine the optimal percentage range of each type of investment to be held.

(d) The Plan Administrator, at the direction of the board, shall be authorized to retain one or more money managers for the management of property held in the plan, and make available the plan assets to such money managers for investment and re-investment in accordance with the terms of this ordinance and the investment policies established by the board.

(e) The board shall have a continuing duty to observe and evaluate the performance of any money manager retained by the City on behalf of the board. The board shall, in selecting a money manager or other investment counsel, exercise all judgment and care in the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs.

(f) The Plan Administrator shall require that any money manager or other agent who has custody or control of any property of the plan to keep accurate and detailed accounts of all investments, receipts, disbursements and other transactions pertaining to such trust property, and shall further require that all accounts, books and records pertaining thereto be open for inspection and audit at all reasonable times by the Plan Administrator, the board or its designees. The board and Plan Administrator shall also be authorized to have conducted an independent audit at the expense of the Fund.

(g) The Plan Administrator shall also keep accurate and detailed accounts of all investments, receipts, disbursements or other transactions pertaining to the trust property and all accounts, books and records pertaining thereto shall be open to inspection and audit at all reasonable times by the City Finance Department, the board or its designees.

(h) The Plan Administrator, after consultation with the board, may retain the services of a qualified independent investment consultant who shall, on a semi-annual basis, report on the relative

performance of the plans investment managers and recommend to the board the retention or replacement of such managers. A qualified independent investment advisor shall make calculations according to the Association for Investment Management and Research method of calculating time weighted rates of return, net of fees, and have a minimum of five years experience.

(i) The Plan Administrator, together with the board, shall present an annual report to the City Council and the Mayor of the financial condition of the plan and of the investment performance of the plan for the preceding fiscal year. The report shall be made in the first quarter of the calendar year. The annual report shall include asset allocation, a listing of specific investments, preceding fiscal year returns, funding status, and actuarial analysis. (Ord. 18314 §5; March 15, 2004).

#### **4.62.030 Investment Board of Trustees; Personal Liability.**

No member of the Police and Fire Pension Plan Investment Board shall be personally liable except in cases of willful dishonestly, gross negligence, or intentional violations of law, for actions relating to investment decisions pertaining to the funds of the Police and Fire Pension Plan. The board is authorized, at the expense of the Fund, to purchase a policy of fiduciary insurance, provided that any non-recourse provision shall not be paid for with Fund assets. (Ord. 18314 §6; March 15, 2004).